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March 26, 2020

VIA ECF

Honorable Lewis J. Liman
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Garcia v. City of New York, et al., 19-CV-8167 (LJL)

Your Honor:

I am an Assistant Corporation Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York (hereinafter "Corporation Counsel"), and the attorney for Defendants City of New York, Deputy Warden Tanisha Mills, and Correction Officer Washington in the above-referenced matter. The undersigned writes to respectfully request, *sua sponte*, that the Court stay this matter for 90 days, until June 24, 2020, due to the ongoing public health emergency. If granted, the deadlines would be extended as depicted below. This is Defendants' first request for a stay of discovery and it is made without Plaintiff's consent, as Plaintiff is currently incarcerated and could not be expeditiously contacted.

<u>Event</u>	<u>Current Deadline</u>	<u>Requested Deadline</u>
Deadline to file motion to amend or to join additional parties	April 6, 2020	July 6, 2020
Deadline to serve initial disclosures	March 20, 2020	June 18, 2020
Close of fact discovery	July 6, 2020	October 5, 2020
Deadline to serve initial requests for production of documents	April 20, 2020	July 20, 2020
Deadline to serve interrogatories pursuant to Rule 33.3(a)	April 20, 2020	July 20, 2020
Deadline to complete depositions	July 6, 2020	October 5, 2020

Deadline to serve requests to admit	June 4, 2020	September 2, 2020
Deadline to file motions for summary judgment	July 20, 2020	October 19, 2020

By way of background, Plaintiff *pro se* alleges that on October 12, 2017, Defendant Correction Officer Washington failed to use pepper spray against another inmate while that inmate assaulted Plaintiff. ECF No. 2. According to DOC injury to inmate and incident reports, the aggressor was Keon Cole, who is currently incarcerated in Rikers Island awaiting trial for his assault on Plaintiff. On March 6, 2020, the Court held an initial pretrial conference during which Your Honor endorsed the case management plan submitted by the parties.

Since that time, as the Court is aware, there has been a drastic change in circumstance. On March 20, 2020, Governor Andrew Cuomo issued an executive order in response to the COVID-19 pandemic directing non-essential businesses to close in-office personnel functions. In view of the executive order, other pronouncements from government and judicial officials, associated policies, and expert recommendations, the New York City Law Department has instructed individuals to work from home to ensure compliance with public policy directives and to protect individuals from further community spread of the virus.

Of course, working from home creates a number of challenges that directly impact litigation, especially in terms of corresponding with incarcerated *pro se* plaintiffs. Corresponding with incarcerated *pro se* plaintiffs is particularly difficult in the context of a work from home situation, because the normal course of communication with these individuals is through regular mail. Defendants are not physically present to receive mail sent to the office, and therefore are unable to reliably receive correspondence from incarcerated *pro se* plaintiffs. Moreover, working from home complicates sending correspondence to incarcerated *pro se* plaintiffs, as it requires defendants to venture out to local post offices to send correspondence, and thus undermines efforts to keep individuals at home. Additionally, the undersigned cannot travel to Rikers Island, where both Plaintiff and Mr. Cole are housed, to take their depositions as it is necessary to stay at home as much as is practicable, and because Rikers is closed to visitors. Further, the New York City Department of Corrections currently has no system in place for video depositions to be taken.

Accordingly, the undersigned requests that the Court stay this matter for 90 days from the date of this filing.

Thank you for your consideration herein.

Respectfully submitted,


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CC: **BY FIRST-CLASS MAIL**

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MEMORANDUM ENDORSED. All deadlines are extended in accordance with the proposal above. Defense Counsel is ORDERED to provide a Status Letter by July 8, 2020 informing the Court of status of discovery. A copy of this order will be mailed to Plaintiff by the Court's Chambers.

SO ORDERED. 4/7/2020.

SO ORDERED.

LEWIS J. LIMAN
United States District Judge